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C O N F I D E N T I A L SECTION 01 OF 03 LAGOS 000034

SIPDIS

COMMERCE FOR KBURRESS
AFRICOM FOR CGAY
TREASURY FOR DPETERS, RHALL, RABDULRAZAK
STATE PASS USTR FOR LISER, AGAMA
STATE PASS OPIC FOR ZHAN, MSTUCKART, JEDWARDS
STATE PASS TDA FOR EEBONG, DSHUSTER
STATE PASS EXIM FOR JRICHTER
STATE PASS USAID FOR NFREEMAN, GBERTOLIN
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TAGS: [ETRD](#) [ECON](#) [PGOV](#) [WTRO](#) [USTR](#) [NI](#)
SUBJECT: LOCAL CONTENT BILL STRATEGY

Classified By: CG Donna Blair for reasons 1.4 (b & d)

SUMMARY

¶1. (C) The Local Content Bill passed both the Senate and the House of Representatives. The Senate and the House versions now need to be reconciled. There will be a third and final reading scheduled once the reconciliation process has been completed. Speculation is that it could happen as soon as the first week of February 2010 and be signed into law before the end of the first quarter 2010. The Local Content Bill requires oil companies to use a majority, if not 100 percent, Nigerian labor and materials in conducting their business. The Coalition of Service Industries plans to respond by coordinating with the U.S. Mission to formulate a position paper on why the Local Content Bill is bad for Nigeria and Nigerians. The American Business Council will coordinate with the Nigerian-American Chamber of Commerce to organize a roundtable on the negative effects of the bill. Results of the roundtable will be worked into a position paper to be presented to relevant committees in the National Assembly. END SUMMARY

CURRENT STATUS OF LOCAL CONTENT BILL

¶2. (SBU) The Local Content Bill (LCB) passed the Senate on April 17, 2008 and the House of Representatives on October 22, 2009. The Senate and the House versions now need to be reconciled. The House has nominated members for the reconciliation, but the Senate has not designated its members. Once the nomination process has been completed, there will be a formal reconciliation and a third and final reading scheduled. Speculation is that it could happen as soon as the first week of February 2010 and be signed into law before the end of the first quarter 2010. One issue concerns retaining five percent of management positions as expatriate positions. ExxonMobil has stated that this is unrealistic given that the average international oil company (IOC) joint venture (JV) interest is 40 percent. The IOCs would like to see 15 to 25 percent expatriate managers. Another issue deals with operators who carry out a project

contrary to the provisions of the LCB. The current language states that the IOCs are liable to a fine of five percent of the project sum or cancellation of the project upon conviction. The IOCs want to know who determines non-compliance and who convicts. (NOTE: The IOCs do not execute projects that are not approved by the Nigerian Content Division which is the industry regulator charged with implementation of the Nigerian content policy. END NOTE)

CSI: LOCAL CONTENT BAD FOR U.S. INDUSTRY

¶3. (C) Members of the Coalition of Service Industries, (CSI) including Bob Vastine, Eric Toy, and Bob Moran from Halliburton, Brian Petty from International Association of Oil Drillers, and Tim Richards from GE, participated in a conference call with the Ambassador and other members of Mission Nigeria to discuss the recently passed Local Content Bill (LCB) on December 22. The CSI members expressed their concern about the impact that the LCB will have on their businesses in Nigeria. They specifically referred to the schedule attached to the bill that requires up to 100 percent local content for certain materials and labor covering most of the processes involved in drilling for oil in Nigeria. Moran also commented on the technology transfer requirements of the LCB and said that Halliburton would either leave Nigeria because of these requirements or would bring in inferior technology which would limit the company's efficiency.

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AMBASSADOR: SHOW WHY LOCAL CONTENT IS BAD FOR NIGERIA

¶4. (C) CSI stated that they had been in discussions with Dr. Egbogah, the Special Advisor to the President on Petroleum Matters. The Ambassador pointed out that this was most likely the wrong point of contact since Egbogah would be most effective if the LCB had originated from the executive. The Ambassador suspected that the LCB originated in the legislature, thereby limiting Egbogah's potential impact. (NOTE: The LCB originated with the Obasanjo regime according to Nigeria Oil and Gas Monthly business editor Solomon Ugboodu. END NOTE) The Ambassador continued by stating that CSI should focus on why the LCB is bad for Nigeria and Nigerians. Currently, CSI has a "side-by-side" analysis that explains why each section of the bill is bad for U.S. industry. This "side-by-side" was created 18 months ago and was based on the Senate version of the LCB. The Ambassador suggested that CSI update their analysis to include the more current House version and the potential impact of both bills, or a consolidated version of both bills, on Nigeria. Complaining about how the LCB impacts foreign companies will fall on deaf ears in the National Assembly. The Ambassador committed the Mission to procure a copy of the latest copies of both the House and Senate versions of the LCB and to forward these to CSI.

STRATEGY TO ENGAGE NATIONAL ASSEMBLY

¶5. (C) The Ambassador suggested that CSI team up with the American Business Council (ABC) in Nigeria as well as the Nigerian American Chamber of Commerce to form a team of both U.S. and Nigerian companies. This team would produce analysis as to why the LCB is bad for Nigeria and Nigerians using the most current legislation. The Ambassador identified three areas where this team could have an impact. The first area was in the harmonization committee. Currently, the House and Senate versions of the LCB have minor differences that must be resolved before the bill is signed into law. The second area is the implementation

committee. As the LCB is implemented and regulations are formulated it is possible to influence how that is done. The third area is to contact Dr. Egbogah in the hopes that he could have some influence on the process. The Ambassador committed the U.S. Mission to contacting Dr. Egbogah.

¶6. (C) The Ambassador met with Nigerian-American Chamber of Commerce (NACC) President Laolu Akinkugbe on December 23. Akinkugbe stated that his SME members were in favor of the bill, but there was not much support beyond that. The Ambassador followed up by asking what happens if the LCB comes out badly? Akinkugbe responded that, in that case, joint advocacy would be required between the United States and the NACC. The NACC would see what happens in the first quarter and would plan on explaining to members the impact of the bill, Akinkugbe continued. A joint ABC-NACC position should be formulated at that time. NACC has yet to begin working on this. The Ambassador queried if Mission Nigeria could help the NACC in working on a position paper and Akinkugbe said yes.

¶7. (C) All agreed on holding a roundtable during the first part of 2010. After the roundtable, a group of ABC and NACC members would approach the appropriate committee jointly. ConGen Lagos will contact ABC President Dick Kramer to seek for his assistance in this matter.

OIL COMPANIES NOT DOING THEMSELVES ANY FAVORS

¶8. (C) The Ambassador met with Citibank Managing Director Emeka Emuwa on December 29. When asked how he felt about the

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LCB, Emuwa stated that it is not a "today issue." The industry set itself up by not investing enough in the past. If things had been done right in the past, there would have been no problem today. It was entirely possible that not "a dime" of contract monies flowed to Nigerians before the LCB. Emuwa saw no problem with letting more value creation be made in Nigeria. The issue is "how far do you push?" The Ambassador countered that the schedules are too aggressive. "Not surprising," Emuwa replied. He continued that there is not much sympathy for Shell. They were the first company to find oil and could have very easily spent a little bit more in the communities. The attitude at Shell was that they paid their taxes and it was up to the GON to deal with the community. Shell has been more involved in community relations in recent years but their activity has not been seen as genuine. Exxon Mobil does not have the same problems in that they have managed their community relations better than Shell. Chevron is somewhere between the two. "When you see an advantage, you cannot take 100 percent," opined Emuwa.

¶9. (C) Oil services companies with a short history will leave Nigeria, predicted Emuwa. The ones with a longer legacy will stick it out because there still is money to be made in Nigeria. The case of the LCB is similar to the case of the PIB. NNPC and Nigerians overall push hard in negotiations. "The IOCs must not back down but see the process through," Emuwa insisted.
BLAIR